

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

WILLIAM MCDERMET,

Plaintiff,

v.

**JOHN C. HEATH, ATTORNEY AT LAW,
PLLC d/b/a LEXINGTON LAW FIRM,**

Defendant.

**Civil Action No.
17-12327-FDS**

ORDER ON PLAINTIFF’S MOTION TO REMAND

SAYLOR, J.

This is an action arising from alleged solicitation calls made by defendant to plaintiff’s cell phone. The *pro se* complaint contends that defendant violated the federal Telephone Consumer Protection Act, 47 U.S.C. § 227, Massachusetts telemarketing solicitation statute, Mass. Gen. Laws ch. 159C, and the Massachusetts consumer protection statute, Mass. Gen. Laws ch. 93A.

The complaint was originally filed in the Essex County Superior Court on October 27, 2017. Defendant timely removed the action to federal court on November 27, 2017. Plaintiff moved to remand the case back to state court on December 16, 2017, on the ground that jurisdiction in the state court was proper.

It is undisputed that the Superior Court could have heard this suit. However, “any civil action brought in a state court of which [federal district courts] have original jurisdiction may be removed by the defendant [] to the district court of the United States for the district [] embracing the place where such action is pending.” 28 U.S.C. § 1441(a). A district court's

original jurisdiction extends, among other things, to claims that arise “under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331. If an action includes both federal-law claims and state-law claims, then the district court may exercise supplemental jurisdiction over the state-law claims. 28 U.S.C. § 1441(c).

Because plaintiff has alleged a violation of the federal Telephone Consumer Protection Act, this Court has original jurisdiction and may exercise supplemental jurisdiction over the state-law claims. Accordingly, removal was proper, and plaintiff’s motion to remand will be DENIED.

So Ordered.

Dated: January 3, 2018

/s/ F. Dennis Saylor
F. Dennis Saylor IV
United States District Judge